IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4271 OF 2005.

The State of Maharashtra. ... Applicant.
Versus.
Balkrishna S.Lonche & another. ... Respondents.

Shri S.R.Shinde, A.P.P.for the Applicant.

CORAM : ABHAY S.OKA, J.

DATED : 17th October, 2006.

P.C.:

1. Heard the learned A.P.P. for the State. The acquittal of the Respondents is for the offences punishable under sections 323, 324, 504 read with section 34 of the Indian Penal Code. After having heard the learned A.P.P. for the State, I find that no case is made out for grant of leave.

2. The case of the Complainant is that he suffered a head injury. However, the clothes on his person were not seized by the Police. It is alleged that a sickle was used as weapon of assault. There is neither any recovery nor any seizure of the said sickle. The stick which was produced at the instance of the 1st Respondent is not helpful to the prosecution as found by the learned trial Judge. It is found that admittedly there were neighbours of the Complainant who were present where the incident occurred. But their statements are not recorded. The learned trial Judge noted that the Complainant admitted his rivalry with the accused

persons. The learned trial Judge held that the testimony of the Complainant was not free from doubt and on the basis of the sole testimony of the Complainant, the order of conviction cannot be passed.

3. No case is made out for grant of leave. The Application for leave is rejected.

Judge.